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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/581,697

04/18/2007

Christian Gschwend

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MORRISS OBRYANT COMPAGNI, P.C.  
734 EAST 200 SOUTH  
SALT LAKE CITY, UT 84102

EXAMINER

DUCKWORTH, BRADLEY

ART UNIT

PAPER NUMBER

3632

MAIL DATE

DELIVERY MODE

10/14/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/581,697	<b>Applicant(s)</b> GSCHWEND, CHRISTIAN	
	<b>Examiner</b> BRADLEY H. DUCKWORTH	<b>Art Unit</b> 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2009 and 26 January 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/26/09 has been entered.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 18 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claim recites the relative sizes of radii of various arches, this information is not shown or described in the application as filed. There is no mention of the radii of the arches or how they relate in size to one another.

#### ***Claim Rejections - 35 USC § 102***

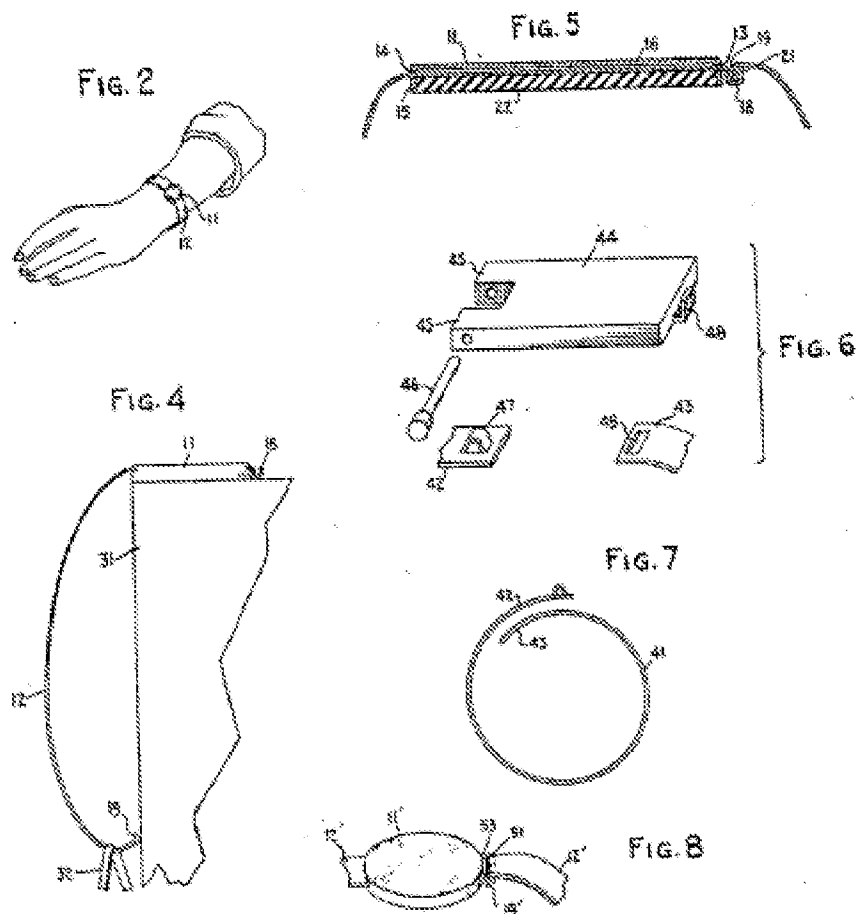
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,13 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Montero(FR1015197). Referring to figures 4-6, Montero discloses a bag holder comprising a closed bracelet member which can be used to display precious stones. The bracelet having an open U-shaped position(figure 4) with an elastically resilient band made from spring steel having a first limb(12) that ends in a first end region(44) having a first end, and a second limb with an end region having an end(21) that curves back to the first limb, the limbs connected by an arch(bottom of loop), the first and second end regions being able to be spread apart in an open position(figure 4) and closed in a closed position(figure 5) where the second end region having a substantially planar portion(generally 43) which overlaps a substantially planar end portion of the first end region so that they are substantially parallel over the entire region of overlap(see figure 5). The device further having a friction pad layer(22) formed on an inner side of the band. As seen in figure 4, the holder first limb being positionable on a flat surface with the second end hanging down and having a distal end extending upwards forming a hook.



Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by Neivert(US002692108).Referring to figures 1 and 3, Neivert teaches a bag holder that is comprised of an elastic band having a generally triangular shape, as seen in figure 1. Referring to figure 3, the band has a first limb(18) with a first end(26), with the limb being planar over its length. The band further comprising a second limb(6) with a first limb portion(4) forming a hook and a second limb portion(6) connected to the first

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portion by a transitional arch( hook arch) with a radius less then the radius of the first limb portion. The first and second limbs being connected by a connection arch(bend between 28 and 6) which has a radius less then the radius of the first limb portion. Such that in a closed position(figure 1) the ends of the first and second limbs overlap and press against each other such that they are substantially parallel over the region of overlap. With the holder positionable as in figure 3 with the first limb on a flat surface and the second limb extending below the first limb with the end portion bending upwards to form a hook.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

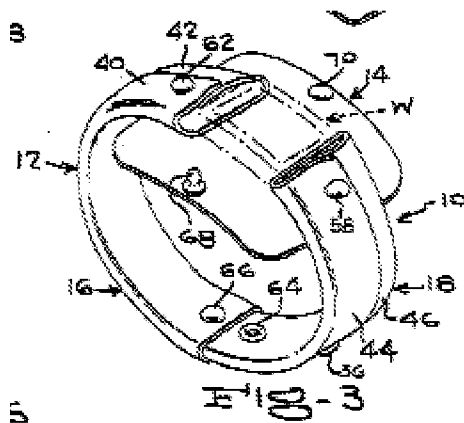
Claims 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montero as applied to claim 1 above. Montero teaches a support as detailed

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above, however Montero does not disclose an alarm device on the support. The use of alarm devices to alert the owner of an object to potential thievery is well known, and it would have been obvious to one of ordinary skill in the art at the time of invention to place a communication device, such as a transmitter or receiver, on the support, and another in a remote location to alert the owner of the support to potential unwanted removal of the support or items held therein, as this would be using known devices, such as remote alarms, for their known purpose. In regards to claim 14 Montero does not disclose what material is used for the friction pad(22) however it would have been obvious to one of ordinary skill in the art at the time of invention to make the pad out of rubber, as rubber is a well known material for providing high frictional forces when placed on a surface.

Claims 3-11 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montero as applied to claim 1 above, and further in view of Cornett(US002998695). Montero discloses a support in the form of a bracelet as detailed above, however Montero does not disclose the use of a cover or coating in the form of a bag like member to encompass the band of the support. Cornett discloses a cover for a watch used to protect the enclosed watch from damage(C1 L9-15), comprising a bag like cover(see figure 3) that completely encompasses a watch, the cover having a closed end(at 66) and an open end having a bag opening(near 62) and a closure having a closure part, snap fasteners(68+70, which were assumed to be metal) that cover an end of the second end region of the second limb. First it would have been obvious to one of ordinary skill in the art at the time of invention to place such a cover

on the bracelet of Montero to protect the bracelet from damage. While Cornett discloses that the cover can be made from plastics, fabric or flexible metal(C2 L47-50), it would have been obvious to one of ordinary skill in the art at the time of invention to either place decorations, such as gems, on the outside of the cover, or to form the inside and outside of the cover out of different materials, as either modification would not affect the functionality, but rather only the appearance of the device, making such a change a matter of simple design choice.



## Response to Arguments

Applicant's arguments filed 1/26/09 have been fully considered but they are not persuasive. Applicant argues that Montero does not teach ends on the end regions, and that the end regions of Montero are not substantially parallel over the entire region of overlap. First there are clearly terminal ends on the end regions of the holder of Montero, and secondly as addressed in the previous action, the end regions of Montero as seen in figure 5 are substantially parallel over the entire region of overlap.

## Conclusion



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Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRADLEY H. DUCKWORTH whose telephone number is (571)272-2304. The examiner can normally be reached on m-f 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. Allen Shriver can be reached on 571-272-6698. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B. H. D./  
Examiner, Art Unit 3632

/J. ALLEN SHRIVER II/  
Supervisory Patent Examiner, Art Unit 3632